



CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: February 16, 2005

  
Jonathan A. Platt

Docket No: ERICP0343US

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Serial No.: 10/611,574

Examiner: Not yet assigned

Filing Date: July 1, 2003

Art Unit: 2836

Title: LIGHTNING PROTECTION DEVICE AND METHOD

**PETITION FOR FILING DATE UNDER 37 CFR 1.53**

MAIL STOP PETITIONS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is a Petition to obtain a filing date for an application that was correctly filed in complete form, notwithstanding the apparent subsequent loss within the Office of the drawings of the application. It is filed in response to a Notice of Incomplete Nonprovisional Application, mailed on December 30, 2004. A copy of this Notice is appended as Exhibit A.

This application was filed by Express Mail on July 1, 2003, and included 23 pages of text (including an abstract) and 3 drawing sheets. The filed application included a Utility Patent Application Transmittal and a return receipt postcard, copies of which are attached hereto as Exhibits B and C. The return receipt postcard was received in our offices on July 21, 2003. It evidences receipt of the complete application by the United States Patent and Trademark Office, as there is no indication on the postcard that any of the listed items were missing.

02/24/2005 ANONDAF1 00000017 10611574

01 FC:1462

400.00 OP

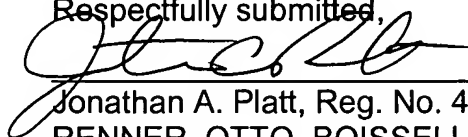
In addition to the evidence provided by the return receipt postcard that the drawings were received by the Office, I, the undersigned, offer my own testimony regarding my personal procedures in filing an application, to assure that all pages of the application are present in the filed copy. I was personally involved in the filing of this application, as indicated by my signature on the Utility Patent Application Transmittal and the Fee Transmittal. It was my practice at the time (and it is still my practice) to personally go through the final stapled version of every application I file, page by page, just prior to inserting the application in an Express Mail envelope, to confirm that all pages are present. After this page-by-page review I personally place the application in the Express Mail envelope and personally seal the envelope, without allowing the application to leave my presence between the review and the sealing, to assure that none of the reviewed materials are removed prior to being sealed up in the envelope.

Since the complete application was filed correctly on July 1, 2003, this application should be accorded the filing date of July 1, 2003. Attached hereto are copies of the three pages of drawings filed with the application, to replace the missing originally-filed drawings.

Contact with the undersigned, at the below telephone number, is invited in order to aid in clearing up any questions that might remain concerning this matter.

Enclosed is a check in the amount of \$400.00, in satisfaction of the fee under 37 CFR 1.17(f). If any additional fees are due with the filing of this paper, authorization is given to charge the additional fees to our Deposit Account No. 18-0988 (Order No. ERICP0343US). Applicants request that the \$400.00 petition fee be refunded, as Applicants correctly filed a complete application, and that complete application was received by the Office. It is requested that the refund associated with this application be credited to our Deposit Account No. 18-0988 (Order No. ERICP0343US).

Respectfully submitted,



Jonathan A. Platt, Reg. No. 41,255  
RENNER, OTTO, BOISSELLE & SKLAR, LLP  
1621 Euclid Ave., 19th Floor  
Cleveland, Ohio 44115  
(216) 621-1113

## EXHIBIT A



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/611,574	07/01/2003	Franco D'Alessandro	ERICP0343US

Jonathan A. Platt  
 Renner, Otto, Boisselle & Sklar, LLP  
 19th Floor  
 1621 Euclid Ave.  
 Cleveland, OH 44115



CONFIRMATION NO. 5171  
 FORMALITIES LETTER  
 \*OC000000014846921\*  
 \*OC000000014846921\*

Date Mailed: 12/30/2004

## NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

## FILED UNDER 37 CFR 1.53(b)

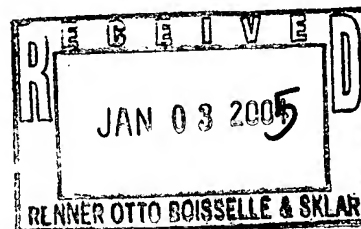
A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below **and a newly executed oath or declaration covering the items must** be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)). Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*

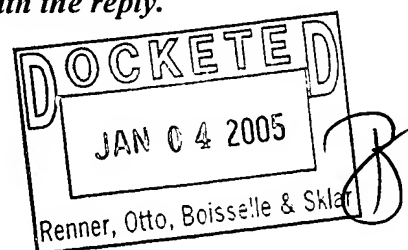
Replies should be mailed to: Mail Stop Missing Parts  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria VA 22313-1450



*A copy of this notice **MUST** be returned with the reply.*

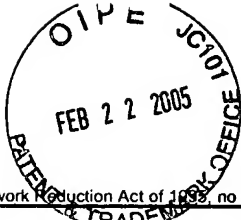
*Jonathan A. Platt*  
 Customer Service Center

*2/28/05*



Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



## EXHIBIT B

PTO/SB/05 (05-03)

Approved for use through 04/30/2003. OMB 0651-0032  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UTILITY  
PATENT APPLICATION  
TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	ERICP0343US
First Inventor	D'Alessandro
Title	LIGHTNING PROTECTION ...
Express Mail Label No.	EV337309796US

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

## ADDRESS TO:

Commissioner for Patents  
Mail Stop Patent Application  
P.O. Box 1450  
Alexandria VA 22313-1450

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)  
(Submit an original and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.  
See 37 CFR 1.27.
3. ☒ Specification [Total Pages 23]  
(preferred arrangement set forth below)
  - Descriptive title of the invention
  - Cross Reference to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference to sequence listing, a table, or a computer program listing appendix
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawings (if filed)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 3]  
- Drawings are Formal
5. ☐ Oath or Declaration [Total Sheets 2]
  - a. ☒ Newly executed (original or copy)
  - b. ☐ Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 18 completed)
    - i. ☐ **DELETION OF INVENTOR(S)**  
Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
  - a. ☐ Computer Reader Form (CRF)
  - b. Specification Sequence Listing on:
    - i. ☐ CD-ROM or CD-R (2 copies); or
    - ii. ☐ Paper
  - c. ☐ Statements verifying identity of above copies

## ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement of Power of Attorney (when there is an assignee)
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure Statement (IDS)/PTO-1499
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent. Certificate of Express
17. ☒ Other: Mailing

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: .....

Prior application information:

Examiner

Art Unit:

For CONTINUATION OF DIVISIONAL APPS only; The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## 19. CORRESPONDENCE ADDRESS


☐ Customer Number or Bar Code LabelOR ☒ Correspondence address below

Name	Jonathan A. Platt				
Address	Renner, Otto, Boisselle & Sklar, LLP				
City	Cleveland	State	Ohio	Zip Code	44115-2191
Country	U.S.	Telephone	(216) 621-1113	Fax	(216) 621-6165
Name (Print/Type)	Jonathan A. Platt	Registration No. (Attorney/Agent)	41,255		
Signature		Date	7/1/03		

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**EXHIBIT C**

Applicant DAVID S. SHERMAN Case No. EP020743US  
Serial No. \_\_\_\_\_ Filing Date \_\_\_\_\_ Atty XXX  
Title LIGHTNING PROTECTION DEVICE AND METHOD  
Mailed 7/1/03 Due Date \_\_\_\_\_ Ex. Mail No. EV33730979SUS  
(☒) Patent Application (☒ New ☐ CON ☐ DIV ☐ CIP ☐ CPA ☐ PCT ☐ Provisional)  
☒ Transmittal/Request ☒ Declaration/Power of Atty ☒ Express Mail Certification  
23 Pages of Specification ☐ Assignment & Cover Sheet ☐ Issue Fee Trans.  
3 Sheets of Drawings ☐ RCE ☐ Main. Fee Trans.  
☐ Application Data Sheet ☐ IDS/1449/Refs. ☐ Ltr. Off. Draftsman  
☐ Request for Non-Publication ☐ Priority Document(s) ☐ Notice of Appeal  
( ) Amendment/Response ☐ Decl. Sec. 8 & 15 ☐ Appeal Brief  
☐ Transmittal ☐ Ext. of Time ☐ Ren. Sec. 8 & 9  
( ) Trademark/Service App.  
☐ Specimens ☐ St. of Use (X) Checks \$ 1038.00 \$ \_\_\_\_\_  
( ) Other 17410 U.S. PTO  
10/611574  
  
07/01/03

**RECEIPT ACKNOWLEDGED**



RENNER, OTTO, BOISSELLE & SKLAR, LLP

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